

her rightful place on the bench. On May 1, 2003, she received 52 votes in a cloture motion; on May 8, 2003, 52 votes; on July 29, 2003, 53 votes; and on November 14, 2003, 53 votes.

She has waited, and she is going to be rewarded. She will get over 50 votes, and she will take her place on the bench. Justice Owen ought to receive 100 votes. Anyone who has looked at her record and who has seen her experience knows she is a judge who does not believe in making law from the bench. She believes in interpreting law, trying to determine what the Supreme Court has said on this subject, trying to determine what the legislature intended, as it is her responsibility to do. To depict Justice Owen as a judicial activist is absolutely wrong. President Bush is trying to put jurists on the bench who have a strict constructionist view of the Constitution, who interpret as opposed to making laws from the bench.

Justice Owen, as has been said so many times, has bipartisan support in Texas. Fifteen State bar presidents—Republicans and Democrats—have come out in her favor. The American Bar Association gave her a unanimous well-qualified rating, the highest they give. She was reelected to the Texas Supreme Court with 84 percent of the vote. Priscilla Owen has had distortions of her record. She has had innuendoes about what she believes, no one speaking from knowledge, and yet she has never lashed out, she has never shown anger or bitterness, always a judicial demeanor, always respect for the Senators as they were questioning her.

I believe it is an important time in the Senate that we are now voting on someone who has been held up for four years, and I hope this is a time that is never repeated in Senate history. I hope we will go forward with all of the judges who should have the respect given to people willing to serve, people who have taken an appointment with the honest view that they can do a good job for our country and, in many cases, taking pay cuts to do so. I hope they will be treated by the Senate in the future with respect. I hope we can debate their records according to the different views. But in the end, I hope they will get an up-or-down vote, not only for these nominees, but out of respect for the President of the United States. Our President, George W. Bush, has had fewer circuit court of appeals nominees confirmed by the Senate than any President in the history of our country—69 percent. Every other President of our country has had confirmation rates in the seventies, eighties, and even Jimmy Carter in the nineties, and yet our President has not had his right under the Constitution for appointment of judges who would get an up-or-down vote by the Senate.

I hope that period in the history of the Senate is at an end today. I hope this is the first day of going back to the traditions of over 200 years, except for that brief 2-year period in the last session of Congress. I think the people

of our country also agree this period should end. They agreed by the votes they cast for Senators who are committed to up-or-down votes. There were Democrats who ran on that platform and won, and there were Republicans who ran on that platform and won.

I hope very much that today we will end a dark period in the Senate and return to the traditions of the past 200 years and not only confirm Priscilla Owen, as we are going to do today, but start the process of giving up-or-down votes to the other nominees who have come out of committee after thorough vetting and after debate of any length of time that is reasonably necessary to bring everything to the table and to the attention of the American people. In the end, every one of these people has reputations and experience and they deserve the respect of an up-or-down vote.

Priscilla Owen, I have to say, is the perfect person to be first in line to break a bad period in the history of the Senate because she is a person of impeccable credentials. She is a person with a great record of experience, showing what a smart, honorable judge can be. She is a person who graduated at the top of her class at Baylor Law School. She is a person who received the highest score on the State bar exam. She is a person who practiced law for over 15 years and was so well regarded that she was asked to run for the Texas Supreme Court, and she did so. She is a person who was reelected with 84 percent of the vote and endorsed by every major newspaper in Texas. No one ever said anything bad about Priscilla Owen as a person. Her record has been distorted, but she is a person of impeccable credentials.

I was able to talk with Priscilla in the last few days. She is so happy that she is going to finally have this opportunity because she certainly has withstood so much. This is going to be a bright day in her life. And Priscilla Owen deserves a bright day.

I said in one of my earlier speeches that the classmates of her father at Texas A&M, the class of 1953, have a reunion every year. They realized at their reunion 2 years ago that one of their classmates who died very early had a legacy. The class newsletter came out saying, with a headline: “Pat Richman’s Legacy,” and it told the story of Priscilla Owen. It related back to her dad in the class of 1953 at Texas A&M when it was an all-male school, and almost every member of the Corps of Cadets went into the service after graduation, as did Pat Richman.

Pat Richman served in Korea. He left his sweetheart, whom he had just married, pregnant, as he took off for Korea. Priscilla was born while he was gone. He came back to see her for the first time when she was 7 months old. Pat Richman died of polio 3 months later. His daughter, of course, never remembered anything about him, but he was a star in the class of 1953.

When the newsletter came out, they decided to invite Priscilla Owen to

their last reunion this spring, and she went. She told me she learned things about her dad she had never heard before because, of course, it was from the perspective of his college classmates.

I ended that speech by saying I hope Priscilla Owen will be able to go to this year’s reunion of the class of 1953 and that she would be able to go as a Fifth Circuit Court of Appeals judge.

In about 2 hours, this Senate is going to finally do the right thing for this woman of courage, conviction, and quiet respect for the rule of law and for our President, quiet respect for the Senate that I do not think has merited that respect in her individual case, although I love this institution. But she does respect the institution, the process, and most especially the judiciary of our country. Priscilla Owen is finally going to be treated fairly by the Senate. I know the class of 1953 is going to invite her back, and I know she will attend as a judge on the Fifth Circuit Court of Appeals to once again hear stories about her dad, Pat Richman, a man she never met but who is so respected by those classmates because he was one of the class stars.

It is time that Priscilla Owen has that opportunity. I am pleased the Senate is finally going to give her what is rightfully due and long overdue, and that is an up-or-down vote, where I am confident she will be confirmed. She will make America proud because she will undoubtedly become one of the best judges on the Federal bench in the United States of America.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA’S NUCLEAR NONPROLIFERATION POLICY

Mr. OBAMA. Mr. President, we have been spending a considerable amount of time in this body debating the so-called nuclear option. Today I want to spend a little bit of time talking about an issue that poses a more significant threat to our Republic.

Throughout the last half of the 20th century, one nation more than any other on the face of the Earth, defined and shaped the threats posed to the United States. This nation, of course, was the Soviet Union and its successor state, Russia.

While many have turned their attention to China or other parts of the world, I believe the most important threat to the security of the United States continues to lie within the borders of the former Soviet Union in the form of stockpiles of nuclear, biological, and chemical weapons and materials.

We are in a race against time to prevent these weapons from getting in the hands of international terrorist organizations or rogue states. The path to this potential disaster is easier than anyone could imagine. There are a number of potential sources of fissile material in the former Soviet Union in sites that are poorly secured. The material is compact, easy to hide, and hard to track. Weapons designs can be easily found on the Internet.

Today, some weapons experts believe that terrorist organizations will have enough fissile material to build a nuclear bomb in the next 10 years—that is right, 10 years.

I rise today to instill a sense of urgency in the Senate. I rise today to ask how are we going to deal with this threat tomorrow, a year from now, a decade from now?

The President has just completed an international trip that included a visit to Russia. I commend him for taking this trip and making our relationship with Russia a priority.

During the Cold War, the United States and the Soviet Union produced nearly 2,000 tons of plutonium and highly enriched uranium for use in weapons that could destroy the world several times over. To give an idea of just how much this is, it takes only 5 to 10 kilograms of plutonium to build a nuclear weapon that could kill the entire population of St. Louis. For decades, strategic deterrence, our alliances, and the balance of power with the Soviet Union ensured the relative safety of these weapons and materials.

With the end of the Cold War and the collapse of the Soviet Union, all this has changed. Key institutions within the Soviet national security apparatus have crumbled, exposing dangerous gaps in the security of nuclear weapons, delivery systems, and fissile materials.

Regional powers felt fewer constraints to develop nuclear weapons. Rogue states accelerated weapons programs.

And while this was happening, international terrorist organizations who are aggressively seeking nuclear weapons gained strength and momentum.

Now, thanks to the leadership of former Senator Nunn and Senator LUGAR in creating the Cooperative Threat Reduction Program at the Department of Defense, there is no question that we have made some great progress in securing these weapons.

These same two leaders continue to work tirelessly on this issue to this day—Senator Nunn, through the Nuclear Threat Initiative, and Senator LUGAR, through his chairmanship of the Foreign Relations Committee.

The situation in Russia and the rest of the former Soviet Union is drastically different than it was in 1991 or even 1996 or 2001. But, the threat is still extremely dangerous and extremely real.

In March of this year, a senior Russian commander concluded that 39 of 46

key Russian weapons facilities had serious security shortcomings. Many Russian nuclear research sites frequently have doors propped open, security sensors turned off, and guards patrolling without ammunition in their weapons.

Meanwhile, the security situation outside of Russia continues to be of grave concern. Fanatical terrorist organizations who want these weapons continue to search every corner of the Earth resorting to virtually any means necessary. The nuclear programs of nations such as Iran and North Korea threaten to destabilize key regions of the world. We are still learning about the tremendous damage caused by A.Q. Khan, the rogue Pakistani weapons scientist.

Looking back over the past decade and a half, it is clear that we could and should have done more.

So as the President returns from his trip to Russia, we should be thinking—on a bipartisan basis—about the critical issues that can guide us in the future to ensure that there are no more missed opportunities.

The first question we should be thinking about is what is the future of the Cooperative Threat Reduction Program? What is our plan? I believe the administration must spend more time working with Congress to chart out a roadmap and a strategic vision of the program.

There are two things the President can do to move on this issue. First, in the National Security Strategy to Combat Weapons of Mass Destruction of 2002, the administration said the National Security Council would prepare a 5-year governmentwide strategy by March of 2003. To my knowledge, this has not been completed. In addition, Congress required the administration to submit an interagency coordination plan on how to more effectively deal with nonproliferation issues. This plan is due at the end of this month.

Completing these plans will help the United States better address critical day-to-day issues such as liability, resource allocation, and timetables. Having a better strategic vision will also help us work more efficiently and effectively with other international donors who have become increasingly involved and are making significant contributions to these efforts. This is very important, as the contribution of other donors can help us make up valuable lost time.

Mr. President, my second question concerns the U.S.-Russian relationship. Where is this relationship heading? Will Russia be an adversary, a partner, or something in between?

We do not ask these questions simply because we are interested in being nice and want only to get along with the Russians. We have to ask these questions because they directly impact our progress towards securing and destroying stockpiles of nuclear weapons and materials.

In the last few years, we have seen some disturbing trends in Russia: the

rapid deterioration of democracy and the rule of law, bizarre and troubling statements from President Putin about the fall of the Soviet Union, the abuses that have taken place in Chechnya, and Russian meddling in the former Soviet Union—from the Baltics to the Ukraine to Georgia.

The Russians must understand that their actions on some of these issues are entirely unacceptable.

At the same time, I believe we have to do a better job of working with the Russians to make sure they are moving in the right direction. This starts by being thoughtful and consistent about what we say and what we do. Tone matters.

Some of the statements by our own officials have been confusing, contradictory, and problematic. At times I have been left scratching my head about what exactly our policy is and how administration statements square with this policy.

Another issue is the level of sustained engagement with Russia. I am glad the President and Secretary of State have made several trips to Russia, but as these trips are only a few days every year or so this is only one aspect of the relationship.

An additional component, which has suffered in recent years, is our foreign assistance programs to Russia and the rest of the former Soviet Union. These programs are absolutely essential in maintaining our engagement with Russia. These programs are not giveaways. They are programs that advance U.S. interests by strengthening Russian democracy and civil society, enhancing economic development and dealing with international health issues—in addition to curbing the nonproliferation threat.

At a time when these programs are desperately needed, their budgets have been cut dramatically. At a time when we should be doing more to engage and shape the future of Russia, we seem to be doing the exact opposite.

The nonproliferation threat does not exist in a vacuum. The issue I just mentioned, along with other important issues such as our own strategic nuclear arsenal, must be considered as we move forward.

Finally, Mr. President, I would like my colleagues to consider how our relationship with Russia, and our efforts to secure and destroy weapons and materials inside the former Soviet Union, fits in with our broader nonproliferation goals.

Russia is a major player in the two biggest proliferation challenges we currently face—Iran and North Korea. Russia's dangerous involvement with Iran's nuclear program has been well documented, and there is no question their actions will be pivotal if the President is to successfully resolve this deteriorating situation.

The Russians are also an important voice in trying to make progress on the deteriorating situation in North Korea. The Russian city of Vladivostok is

home to 590,000 people and is very close to the North Korean border, putting the Russians smack in the middle of the crisis that we need to resolve.

In addition to all this, Russia holds a seat on the Security Council of the United Nations, which could consider Iranian and North Korean issues in the very near future.

Developing bilateral and multilateral strategies that deal with Russia's role in these growing crises will be extremely important, both in terms of resolving these crises, advancing our non-proliferation goals within the former Soviet Union, and our long-term relationship with Russia.

I realize that, at this time, none of us have all the answers to these extraordinarily difficult questions. But if we hope to successfully fight terror and avoid disaster before it arrives at our shores, we have to start finding these answers. We have a lot of work to do.

I believe it is worth putting in place a process, one that involves senior administration officials, a bipartisan group of Members of Congress, as well as retired senior military officers and diplomats, in an effort to dramatically improve progress on these issues.

I am interested in hearing from the President about his trip. I am also interested in hearing if he believes that an idea similar to the one I put forward is worth considering.

Delay is not an option. We need to start making more progress on this issue today. I urge my colleagues to act.

Despite all the distractions we have had with the so-called nuclear option and judicial nominations, this is literally a matter of life and death. I hope we start paying more attention to it in this Senate Chamber and in the debates that are going to be coming in the coming months.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, let me thank my colleague and friend from Illinois for his incisive comments on a very important topic.

I am here to discuss the vote we will take at noon on the nomination of Priscilla Owen to the U.S. court of appeals. We all know a lot has changed in the last 48 hours. The Senate has stepped back from the precipice of a constitutional crisis. Our robust system of checks and balances has been saved from an unprecedented attack. Fourteen moderates came together and said we are not going to tolerate a nuclear option and that we are asking the President to come and talk to us before he makes a nomination.

While the compromise reached by 14 Senators has dramatically changed the outlook for the Senate, one thing has not changed, the record of Justice Priscilla Owen. I want to spend some time talking about that record, though it speaks for itself.

There is no question that Justice Owen attended fine schools and clearly is a very bright woman. But there is also no question that she is immoderate, she is a judicial activist, and she puts her own views ahead of the law's views. In case after case, Justice Owen comes to conclusions that are simply not justified by the facts or by the law. These decisions consistently come down against consumers, against workers, against women seeking to exercise their constitutional rights.

In choosing judges, in voting for judges, I have one standard and one standard alone. It is not a litmus test on any one issue. It is simply this: Will judges interpret law or not? Will judges do what the Founding Fathers said they should do—because, after all, they are not elected—and interpret what the legislature and the President have wanted and the Constitution requires, not put their own views above the people's views?

If there was ever a judge who would substitute her own views for the law, it is Justice Owen. Her record is a paper trail of case after case where she knows better than 100 years of legal tradition. It does not matter how brilliant a nominee is, or what a great education or career she has had; if she puts her own views above the law's views, she does not belong on the bench. It is as simple as that. In case after case, that is just what Justice Owen has done.

She thinks she knows better than the 100 years of established law tradition. She thinks she knows better than what the people have wanted, as enunciated by their legislators. Her own views take precedence over all other views. That is why she does not belong on the bench.

Let me go over a few cases, a few of many, where she has done this. In one case, *In re Jane Doe*, Judge Owen's dissent came under fire from her colleagues of the Texas supreme court. They referred to her legal approach as an effort to "usurp legislative function."

Even more troubling, Attorney General Alberto Gonzales, who sat on the same court as Judge Owen at the time, wrote a separate opinion. He went out of his way to write a separate opinion to chastise the dissenting judges, including Justice Owen, for attempting to make law, not interpret law from the bench.

Here is what Judge Gonzales said. He said that to construe the law as the dissent—that is what Priscilla Owen did—would be "an unconscionable act of judicial activism." How ironic. The very same conservatives who rail against judicial activism are putting at the top of their pantheon a judge who, by Alberto Gonzales's own testimony, is an activist, somebody who thinks, "I know better."

Activism does not mean left or right. Activism means putting your own views above the law. That is not what the Founding Fathers wanted.

Let's look not at my words but at those of Judge Gonzales. They are

words of a man who served for 4 years as President Bush's White House counsel. He is now the Attorney General. He is a distinguished conservative. Some of my colleagues have tried to suggest that Mr. Gonzales was not referring to Justice Owen by his caustic comment. Who are we kidding? It was brought up at her hearing originally. He didn't say a peep. Only now that she is controversial, people said: Well, explain yourself. I am sure he was pressured.

I direct my colleagues to a New York Times article by Neil Lewis last week which reported that Attorney General Gonzales specifically admitted he was referring to Justice Owen's dissent, among others, in his written opinion.

Let's take another case, *Montgomery Independent School District v. Davis*. There the majority, also including Judge Gonzales, ruled in favor of a teacher who had wrongly been dismissed by her employer. Justice Owen dissented, deciding against the employee. That is what she typically does.

The majority, which included Judge Gonzales, ruled in favor of a teacher who had been wrongly dismissed by her employer. Justice Owen dissented, siding against the employee. The majority, including Judge Gonzales once again, wrote that:

Nothing in the statute requires what the dissenters claim.

They went on to say:

The dissenting opinion's misconception stems from its disregard of the rules that the legislature established. . . .

And that:

The dissenting opinion not only disregards procedural limitations in the statute but takes a position even more extreme than argued by the employer.

There is Justice Owen. She looks very nice. But here is another case where she not only put her own view on the table, but she went further even than the defendant employer did. That is why she does not belong on the bench. She always does that, time and time again.

A third case, *Texas Department of Transportation v. Able*, again Justice Gonzales took Owen to task for her activism.

I am not going to get into all these cases but they are clear. Justice Owen, yes, she has a good education; yes, she has had a distinguished, long career; and, yes, she just does not belong on the bench because she thinks her views are better, more important, and superseding the views of the law, the views of the legislature, the views of the people.

I want to speak for the few more minutes I have left about the agreement and where we go from there. It is one thing to put on the bench mainstream conservatives, who do not adhere to an extreme agenda. I have voted for many, many of the judges we have confirmed so far. Many of them have views on choice or other things quite different from my own. Where we have a duty is to stand up and oppose